IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 657 OF 2005

1. Kamalakant S. Mishra]
   Senior most Asstt.Teacher]

2. Shivadatta R. Singh]
   Head Clerk]

3. Prithviraj S. Singh]
   Senior Clerk]

4. Premkumar Tilakdhari]
   Asstt. Headmaster]

5. Shivagopal Chauthiram]
   Asstt. Teacher]

6. Jyoti P. Ghadi]
   Asstt. Teacher]

7. Rajkumar B.]
   Asstt. Teacher]

8. Motilal B. Singh]
   Asstt. Teacher]

9. Narendrakumar Singh]
   Asstt. Teacher]

10. Ushadevi Khanka]
    Asstt. Teacher]

11. Usha R. Singh]
    Asstt. Teacher]

12. Amita R. Sawant]
Asstt. Teacher]

13. Rohini A. Khedekar]
Asstt. Teacher]

14. Neelam R. Sharma]
Asstt. Teacher]

15. Asmita R. Chaudhari]
Asstt. Teacher]

16. Sunita S. Singh]
Asstt. Teacher]

17. Hemlata M. Singh]
Asstt. Teacher]

18. Hridayanarayan Yadav]
Asstt. Teacher]

19. Deshranjan Pandey]
Shikshan Sevak]

20. Paramhans Tiwari]
Shikshan Sevak]

21. Jayabala B. Singh]
Shikshan Sevak]

22. Manjari R. Singh]
Shikshan Sevak]

23. Serooram Laujariram]
Peon]

24. Kameshwar Yadav]
Peon]
All working in Dayanand Vedic Vidyalaya]
(Hindi High School and Junior College),]

Devi Dayal Road, Mulund (West),]
Mumbai 400 080] ...Petitioners

Versus

1. The State of Maharashtra]
(Through the Secretary to]
the Government of Maharashtra),]
Education Department, Secondary,]
Mantralaya, Mumbai 400 032]

2. The Director of Education]
Maharashtra State, Pune]

3. Dy. Director of Education]
Gr. Mumbai, Jawahar Bal Bhavan,]
Netaji Subhash Road, Charni Road (W),]
Mumbai 400 004]

4. The Educational Inspector,]
Gr. Mumbai (North Zone),]
New Administrative Building,]
Ramkrishna Chemburkar Marg,]
Chembur (E), Mumbai 400 071]
[Writ to be served upon]
the Government Pleader,]
Original Side, High Court,]
PWD Building, High Court Annexe,]
Fort, Mumbai]]

5. Dayanand Vedic Vidyalaya]
(Hindi High School) Sanchalak Samiti,]
a Trust registered under]
the Bombay Public Trusts Act,]
having its office at Devi Dayal Road,]
Mulund (West), Mumbai 400 080]

6. Dayanand Vedic Vidyalaya]
(Hindi High School and Junior College),]
Devi Dayal Road, Mulund (West),]
Mumbai 400 080]

7. Surendra Kumar Agrawal]
claiming to be the Secretary of]
the 5th Respondent Trust residing at B/6-7,]
Mahavir Shikhar, L.B.S. Marg, Mulund (W),]
Mumbai 400 080]

8. Uday Pratap Singh,]
claiming to be the Secretary of]
the 5th Respondent Trust]
having address at Shop No. 3,]
Hemant Building, Jawaharlal Nehru Road,]
Opp. Apna Bazar, Mulund (W),]
Mumbai 400 080]

9. Jaishankar Singh,]
residing at 203, Amar Jyoti Apartment,]
2nd Floor, Opp. TMT Bus Depot,]
Lokmanya Nagar-3,Thane-6.] ...Respondents

Mr. Manish Mistry instructed by Mr. M.P. Vashi & Associates
for the Petitioners

Mr. Durel S. Shah for Respondents No. 8 and 9.

CORAM: DALVEER BHANDARI, C.J., &
S.J. VAZIFDAR, J.
DATE: SEPTEMBER 20, 2005

ORAL JUDGMENT (Per Dalveer Bhandari, C.J.).:-

1. The petitioners have approached this Court with the prayer that respondents No. 1 to 3, i.e., State of Maharashtra, Director of

Education and Deputy Director of Education, be directed to issue show-cause notice under Section 3(1) of the Maharashtra Educational Institutions (Management) Act, 1976 (for short, 'the Act'), and order for appointment of an Administrator for respondent No. 6, Dayanand Vedic Vidyalaya.

2. It is further prayed that pending the hearing and final disposal of the writ petition, an Administrator for respondent No. 6 be appointed.

3. It is also prayed that respondents No. 7 to 9 be directed to permit the petitioners to perform their regular duties by allotting the appropriate work to them and also to permit them to sign on the regular and authenticated muster prepared by respondent No. 4 on 8th September, 2004.

4. The other prayer of the petitioners is that respondents No. 1 to 4 be directed to release the salaries of the petitioners and other members of the staff due from May, 2004.

5. It is similarly prayed that respondents No. 5 and 6 be directed not to

employ unapproved staff from outside and provide work to the petitioners and other teachers.

6. Pursuant to the show-cause notice issued by this Court, reply-affidavit has been filed by the Deputy Education Inspector. Additional affidavit has also been filed by Uday Pratap Singh, respondent No. 8. In the affidavit, respondent No. 8 has stated that he (along with respondent No. 9, Jaishankar Singh) personally submitted the salary bills to the Education Department for clearing some of the approved employees, except the suspended employees. He has also produced Exhibits 'A', 'A-1' and 'A-2', which are the copies of the bills submitted to the Education Department.

7. It is submitted that the Education Department never approved the appointment of petitioners No. 14 to 22, though their appointment was made by petitioner No. 1 and even during the tenure of petitioner No. 1 as signing authority, no salary was drawn in favour of the said petitioners.

8. In the affidavit, it is further mentioned that petitioners No. 1 to 3 have been suspended and they refused to accept the subsistence

allowance, in spite of several oral and written directions. It is mentioned in the affidavit that in order to avoid any confusion and to stand by the statement made before this Court, the deponent has deposited the subsistence allowance directly in the salary account of petitioners No. 1 to 3; and the details of the documents have also been furnished along with this reply-affidavit, indicating that all the amounts have been deposited in their accounts.

9. It is also mentioned in the affidavit that, except petitioners No. 1 and 3, who have been suspended, the school has no objection if the rest of the petitioners sign the respective muster and take classes according to the time table.

10. It is likewise stated that the inquiry against petitioners No. 1 to 3 has been completed and explanation sought from petitioner No. 1 as per the provisions of the Act and Rules framed thereunder.

11. The learned counsel for the petitioners submits that show-cause notices under Section 3(1) of the Act have been received by the petitioners in April, 2005. They have filed replies to the said notices

in May, 2005, and they are awaiting the decision of the concerned authority.

12. In view of developments mentioned above, no further directions are necessary, and this petition is accordingly disposed of. In case the petitioners feel that the entire amount has not been paid to them, they would be at liberty to take appropriate action in accordance with law.

CHIEF JUSTICE

S.J. VAZIFDAR, J.